



Post Office Box 9010 Addison, Texas
75001-9010
5300 Belt Line Road
(972) 450-7000 Fax: (972) 450-7043

AGENDA

REGULAR MEETING OF THE CITY COUNCIL

AND / OR

WORK SESSION OF THE CITY COUNCIL

6:00 PM

OCTOBER 9, 2012

TOWN HALL

ADDISON TOWN HALL, 5300 BELT LINE, DALLAS, TX 75254

WORK SESSION

Item Discussion regarding recycling in Addison.
#WS1 -

Item Discussion regarding the City Council's Fiscal Year 2012-
#WS2 - 2013 Strategic Plan.

REGULAR MEETING

Pledge of Allegiance

Item #R1- Announcements and Acknowledgements regarding Town
and Council Events and Activities

Introduction of Employees

Discussion of Events/Meetings

Item #R2- Consent Agenda.

#2a- Approval of Minutes for the September 25, 2012 Regular Council Meeting.

#2b- Approval of the purchase of (1) 2013 Sutphen "Monarch" Rescue Pumper Fire Truck, under the Town's Inter-local Agreement with the Texas Local Government Purchasing Cooperative - known as BuyBoard.

Item #R3 Discussion and consideration of approval of the formation and appointment of a committee to review naming policy.
-

Item #R4 **PUBLIC HEARING**, presentation, and discussion
- regarding the adoption of an ordinance that amends the Town of Addison's Code of Ordinances by amending Chapter 82 (Utilities) to add thereto a new Article VI, Division 1 regarding a Stormwater (drainage) Utility System; declaring the adoption of Chapter 552, Tex. Loc. Gov. Code, being the Municipal Drainage Utility Systems Act and declaring stormwater (drainage) to be a public utility; establishing a municipal Stormwater (drainage) Utility system; providing for the establishment and calculation of stormwater (drainage) utility fees, including property classifications, for billing policies and procedures, and for credits; providing penalties and remedies for nonpayment of fees, including discontinuance of utility services and the filing of a lien; establishing an

administrative appeals process; providing for termination of the stormwater (drainage) utility system; providing for a stormwater (drainage) utility fund; exempting certain property from fees; providing a penalty clause; providing a severability clause; providing a savings clause; providing for publication; and providing an effective date.

Attachment(s):

1. DRAFT Stormwater Utility Rules Ordinance

Item #R5 **PUBLIC HEARING**, presentation, and discussion
- regarding the adoption of an ordinance that amends the Town of Addison's Code of Ordinances by amending Chapter 82 (Utilities), Article VI (Stormwater (Drainage) Utility System) (proposed) of the said Code of Ordinances by adding thereto a new Division II regarding Stormwater (drainage) Utility Fees; establishing monthly Stormwater (drainage) Utility fees for the purpose of funding the Stormwater (drainage) Utility System; providing a severability clause; providing a savings clause; providing for publication; and providing an effective date.

Attachment(s):

1. DRAFT Stormwater Utility Fee Ordinance

Item #R6 Presentation and discussion regarding the Surveyor 1.5
- million gallon Elevated Storage Tank project.

Item #R7 Presentation, discussion, and consideration of approval of
- amendment number 4 to the Program/Project Management Professional Services agreement between the Town of Addison and R.H. Shackelford, Inc. in the amount not to exceed \$178,965.

Attachment(s):

1. Shackelford amendment number 4

Recommendation:

Staff recommends approval.

Item #R8 - Presentation, discussion, and consideration of approval authorizing the City Manager to execute Change Order number 2 in the amount of \$32,085.00 for the Slope Protection/Drop Structure at Bella Lane.

Attachment(s):

1. change order number 2
2. picture of proposed area

Recommendation:

Staff recommends approval.

Item #ES1 - Closed (executive) session of the Addison City Council pursuant to Section 551.072, Tex. Gov. Code, to deliberate the lease or value of certain real property located at Addison Airport.

Item #ES2 - Closed (executive) session of the Addison City Council pursuant to Section 551.072, Tex. Gov. Code, to deliberate the lease or value of certain real property located at 4460 Belt Line Road.

Item #R9 - Presentation, discussion and consideration of any action regarding the lease between the Town, as landlord, and Durga Services, LLC, as tenant, of the property located at 4460 Belt Line Road.

Item #R10 - Presentation, discussion, and consideration of action regarding certain real property located at Addison Airport,

including the lease or value of such property and related matters.

Recommendation:

Staff recommends approval.

Adjourn Meeting

Posted:

Chris Terry, 10/5/2012, 5:00 pm.

**THE TOWN OF ADDISON IS ACCESSIBLE TO PERSONS
WITH DISABILITIES. PLEASE CALL (972) 450-2819 AT LEAST
48 HOURS IN ADVANCE IF YOU NEED ASSISTANCE.**

Council Agenda Item: #WS1

AGENDA CAPTION:

Discussion regarding recycling in Addison.

FINANCIAL IMPACT:

n/a

BACKGROUND:

n/a

RECOMMENDATION:

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: #WS2

AGENDA CAPTION:

Discussion regarding the City Council's Fiscal Year 2012-2013 Strategic Plan.

FINANCIAL IMPACT:

There is no financial impact associated with this item.

BACKGROUND:

This item will be discussed at the council meeting.

RECOMMENDATION:

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: # R 2a

AGENDA CAPTION:

Approval of Minutes for the September 25, 2012 Regular Council Meeting.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

N/A

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

 [September 25 Minutes](#)

Type:

Backup Material

OFFICIAL ACTIONS OF THE ADDISON CITY COUNCIL REGULAR MEETING

September 25, 2012

7:30 PM - Town Hall

Addison Town Hall, 5300 Belt Line, Dallas, TX 75254

Chris Terry, 9/21/2012, 5:00 PM

Council Members Present:

Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Absent:

None

REGULAR MEETING

Item #R1 - Announcements and Acknowledgements regarding Town and Council Events and Activities

Item #R2 - Consent Agenda

#2a - Approval of Minutes for the September 4, 2012 Special Council Meeting.

Item passed subject to the addition of council attendance on the September 4 agenda, less Margie Gunther, who was not present.

There was no action taken.

#2b - Approval of Minutes for the September 10, 2012 Special Council Meeting.

A motion to Approve was made by Council Member Blake Clemens. The motion was seconded by Council Member Chris DeFrancisco. The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik
Voting Nay: None

#2c - Approval of Minutes for the September 11, 2012 Regular Council Meeting.

A motion to Approve was made by Council Member Blake Clemens.
The motion was seconded by Council Member Chris DeFrancisco.
The motion result was: Passed
Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik
Voting Nay: None

#2d - Approval of Minutes for the September 14, 2012 Special Council Meeting.

A motion to Approve was made by Council Member Blake Clemens.
The motion was seconded by Council Member Chris DeFrancisco.
The motion result was: Passed
Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik
Voting Nay: None

#2e - Approval of Minutes for the September 17, 2012 Special Council Meeting.

A motion to Approve was made by Council Member Blake Clemens.
The motion was seconded by Council Member Chris DeFrancisco.
The motion result was: Passed
Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik
Voting Nay: None

#2f - Approval of an annual contract for Fiscal Year 2012-2013 with the Trinity River Authority to provide inspection & sampling

services and laboratory analysis on certain industries in Addison to comply with wastewater pretreatment laws as required by Environmental Protection Agency.

A motion to Approve was made by Council Member Blake Clemens. The motion was seconded by Council Member Chris DeFrancisco. The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

#2g - Approval of an annual contract for Fiscal Year 2012-2013 with Dallas County Health & Human Services (DCHHS) for the Town of Addison to participate in a portion of the cost of providing selected health services at reduced prices to Addison residents

A motion to Approve was made by Council Member Blake Clemens. The motion was seconded by Council Member Chris DeFrancisco. The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

#2h - Approval authorizing the City Manager to enter into an interlocal agreement with Dallas County in an amount not to exceed \$10,000 for the disposal of Household Hazardouse Waste.

A motion to Approve was made by Council Member Blake Clemens. The motion was seconded by Council Member Chris DeFrancisco. The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R3 - Presentation by Jack Tidwell regarding Vision North Texas.

Jack Tidwell, North Central Texas Council of Governments, presented this item.

There was no action taken.

Item #R4 - Presentation, discussion and consideration of approval of an ordinance amending Chapter 62, Signs, of the Code of Ordinances of the town by providing for a Meritorious Exception to Article IV, Division 3, Attached Signs, Sec. 62-162 and Sec. 62-163, for signs at the Chili's Restaurant, located at 4500 Belt Line Road.

A motion to Approve was made by Council Member Blake Clemens.

The motion was seconded by Council Member Margie Gunther.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R5 - Discussion and consideration of approval of the formation and appointment of a committee to review memorial and naming policy.

The item was approved subject to the removal of any reference to naming policy recommendations and the addition of a directive to name the committee.

Committee nominations are as follows:

Chris DeFrancisco: Roberto Aguilar

Neil Resnik: Paul Walden

Blake Clemens: Susie Hayes

Todd Meier: Mary Carpenter

Margie Gunther: Debra Morgan

Janelle Moore: Pam Krueger

Bruce Arfsten deferred nomination until the October 9 meeting.

A motion to Approve was made by Council Member Chris DeFrancisco.

The motion was seconded by Council Member Bruce Arfsten.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R6 - Discussion regarding parking availability at the Addison Walk and Quorum II shopping centers.

Preston Pillsbury, Addison Walk Shopping Center, and Daniel Fuller, Quorum II Shopping Center, spoke regarding this item.

There was no action taken.

Item #R7 - Presentation, discussion, and consideration of approval of an ordinance amending the Town's investment policy set forth in Chapter 2, Article IV, Division 3 of the Town's Code of Ordinances.

Eric Cannon, Chief Financial Officer, and Scott McIntyre, First Southwest, presented and spoke regarding this item.

A motion to Approve was made by Council Member Bruce Arfsten.

The motion was seconded by Council Member Chris DeFrancisco.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R8 - Presentation, discussion, and consideration of approval of a resolution adopting the Town of Addison Investment Strategy for Fiscal Year 2012-2013.

Eric Cannon, Chief Financial Officer, and Scott McIntyre, First

Southwest, presented and spoke regarding this item.

A motion to Approve was made by Council Member Chris DeFrancisco.

The motion was seconded by Council Member Blake Clemens.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R9 - Presentation, discussion, and consideration of approval of an Ordinance amending Chapter 67, Special Events, of the Code of Ordinances by adding a provision requiring food and beverage vendors to pay a commission, and regarding selection of an in-house private label caterer, for service within the Addison Arts & Events District and at Visit Addison, deleting space rental fees for the Conference Centre, and providing for related items.

Dannette Robberson, City Manager's Office, presented and spoke regarding this item.

A motion to Approve was made by Council Member Blake Clemens.

The motion was seconded by Council Member Margie Gunther.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R10 - Presentation, discussion, and consideration of approval of a Resolution approving a schedule of pricing, including updating current pricing for the rental or use of, and a commission structure to be paid by vendors of food and/or beverages at, the Addison Arts and Events District, including the Addison Conference and Theatre Centre, and Visit Addison.

Dannette Robberson, City Manager's Office, presented and spoke regarding this item.

A motion to Approve was made by Council Member Blake Clemens.

The motion was seconded by Council Member Neil Resnik.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #R11 - Discussion and consideration of approval of an ordinance amending the Annual Budget of the Town of Addison for the fiscal year beginning October 1, 2011 and ending September 30, 2012.

Eric Cannon, Chief Financial Officer, presented and spoke regarding this item.

A motion to Approve was made by Council Member Blake Clemens.

The motion was seconded by Council Member Chris DeFrancisco.

The motion result was: Passed

Voting Aye: Arfsten, Clemens, DeFrancisco, Gunther, Meier, Moore, Resnik

Voting Nay: None

Item #ES1 - Closed (executive) session of the Addison City Council pursuant to Section 551.074, Texas Government Code, to deliberate the evaluation and employment of the City Manager.

Item was moved to follow ES2.

Council entered Executive Session at 9:53 pm.

Council left Executive Session at 10:22 pm.

There was no action taken.

Item #ES2 - Closed (Executive) session of the Addison City Council pursuant to Section 551.071, Texas Government Code, to conduct a private consultation with its attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 552, Texas Government Code, regarding a lease between the Town, as landlord, and Durga Services, LLC, as tenant, of the property located at 4460 Belt Line Road (Clay Pit restaurant).

Council entered executive session at 9:10 pm
Council left executive session at 9:38 pm.

There was no action taken.

Item #R12 - Discussion and consideration of action regarding compensation of the City Manager.

Mayor Meier moved approval to set the City Manager's bonus rate at 5%, and maintain the compensation plan as approved last year.

There was no action taken.

Item #R13 - Discussion and consideration of any action regarding the lease between the Town, as landlord, and Durga Services, LLC, as tenant, of the property located at 4460 Belt Line Road (Clay Pit restaurant).

There was no action taken.

Mayor-Todd Meier

Attest:

City Secretary-Chris Terry

Council Agenda Item: # R 2b

AGENDA CAPTION:

Approval of the purchase of (1) 2013 Sutphen "Monarch" Rescue Pumper Fire Truck, under the Town's Inter-local Agreement with the Texas Local Government Purchasing Cooperative - known as BuyBoard.

FINANCIAL IMPACT:

Capital Equipment Replacement Fund - Budgeted Amount: \$
510,000.00

(Pumper) Cost: \$ 495,938.24

BACKGROUND:

At the January 11, 2005 Council meeting, the Town approved a resolution to join the Texas Local Government Purchasing Cooperative - better known as BuyBoard. BuyBoard issues request for bids for vehicles and equipment every year and receives extremely competitive prices because of the large volume of purchases they generate. This is a comparable purchasing method to those purchases done through the Houston Galveston Area Council. By participating in a cooperative, we are able to receive better prices on items we need and in some cases without the effort of seeking formal quotes or bids.

State statute exempts the Town from formal bid requirements when purchasing through the inter-local Agreement with BuyBoard.

This 2013 Sutphen Pumper replaces a 1993 Sutphen Quint ladder truck that has been the reserve truck and will now be sent to auction. The current 1997 Pierce Quantum Pumper will move into reserve status.

Sutphen Corporation offers a down payment discount option of which staff has chosen to participate. The bid price for this piece of apparatus is \$507,228.00. By sending a down payment of \$376,900.50 with our build order, we save \$11,289.76 off the bid

price for a purchase price of \$495,938.24.

There are sufficient funds in the Capital Equipment Replacement Fund to cover the recommended expenditure of \$495,938.24.

RECOMMENDATION:

Staff recommends approval.

COUNCIL GOALS:

Mindful Stewardship of Town Resources, Provide Superior Public Safety, Customer Service, Social and Health Services to the Community, Conduct the Business of the Town in a Fiscally Responsible Manner

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: #R3

AGENDA CAPTION:

Discussion and consideration of approval of the formation and appointment of a committee to review naming policy.

FINANCIAL IMPACT:

n/a

BACKGROUND:

This item will be discussed at the council meeting. Council Member Arfsten deferred his appointment at the September 25 council meeting to October 9.

RECOMMENDATION:

COUNCIL GOALS:

Maintain and Enhance our Unique Culture, Work to instill a "Sense of Community" in Addison's residents

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: #R4

AGENDA CAPTION:

PUBLIC HEARING, presentation, and discussion regarding the adoption of an ordinance that amends the Town of Addison's Code of Ordinances by amending Chapter 82 (Utilities) to add thereto a new Article VI, Division 1 regarding a Stormwater (drainage) Utility System; declaring the adoption of Chapter 552, Tex. Loc. Gov. Code, being the Municipal Drainage Utility Systems Act and declaring stormwater (drainage) to be a public utility; establishing a municipal Stormwater (drainage) Utility system; providing for the establishment and calculation of stormwater (drainage) utility fees, including property classifications, for billing policies and procedures, and for credits; providing penalties and remedies for nonpayment of fees, including discontinuance of utility services and the filing of a lien; establishing an administrative appeals process; providing for termination of the stormwater (drainage) utility system; providing for a stormwater (drainage) utility fund; exempting certain property from fees; providing a penalty clause; providing a severability clause; providing a savings clause; providing for publication; and providing an effective date.

FINANCIAL IMPACT:

n/a

BACKGROUND:

n/a

RECOMMENDATION:

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

 [DRAFT Stormwater Utility Rules Ordinance](#)

Type:

Ordinance

LEGAL NOTICE

Notice is hereby given that the City Council of the Town of Addison will hold a public hearing on October 9, 2012 at 7:30 P.M. at the Town of Addison, Town Hall, at 5300 Belt Line Rd, Dallas, Texas 75254 (972) 450-7000 to consider the following:

Conduct a public hearing on and regarding adoption of an ordinance that amends the Town of Addison's Code of Ordinances by amending Chapter 82 (Utilities) to add thereto a new Article VI, Division 1 regarding a Stormwater (drainage) Utility System; declaring the adoption of the Chapter 552, Tex. Loc. Gov. Code, being the Municipal Drainage Utility Systems Act and declaring stormwater (drainage) to be a public utility; establishing a municipal Stormwater (drainage) Utility system; providing for the establishment and calculation of stormwater (drainage) utility fees, including property classifications, for billing policies and procedures, and for credits; providing penalties and remedies for nonpayment of fees, including discontinuance of utility services and the filing of a lien; establishing an administrative appeals process; providing for termination of the stormwater (drainage) utility system; providing for a stormwater (drainage) utility fund; exempting certain property from fees; providing a penalty clause; providing a severability clause; providing a savings clause; providing for publication; and providing an effective date.

Please see Exhibit "A" for the proposed ordinance (subject to modification prior to adoption). Any interested persons and parties may submit any information they wish to be considered to the Town Secretary prior to the date of the public hearings or may appear at the public hearings to be heard, or both.

The facility is wheelchair accessible. If you plan to attend and you have a disability that requires special arrangements, please notify the City Secretary 48 hours in advance of the hearings so that reasonable accommodations can be made. For sign interpretive services, please call 72 hours in advance.

For more information on this Legal Notice, please contact the City Secretary at (972) 450-7000.

Signed this the 28th day of August, 2012.

Chris Terry
City Secretary

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS, AMENDING THE TOWN'S CODE OF ORDINANCES BY AMENDING CHAPTER 82 (UTILITIES) OF THE TOWN CODE OF ORDINANCES TO ADD A NEW ARTICLE VI, DIVISION 1 REGARDING A MUNICIPAL STORMWATER (DRAINAGE) UTILITY SYSTEM; DECLARING THE ADOPTION OF THE MUNICIPAL DRAINAGE UTILITY SYSTEMS ACT (SUBCHAPTER C OF CHAPTER 552, TEX. LOC. GOV. CODE) AND DECLARING STORMWATER (DRAINAGE) TO BE A PUBLIC UTILITY AND ESTABLISHING A SERVICE AREA IN CONNECTION THEREWITH; PROVIDING DEFINITIONS; PROVIDING FOR THE ESTABLISHMENT AND CALCULATION OF STORMWATER (DRAINAGE) UTILITY FEES, INCLUDING PROPERTY CLASSIFICATIONS, FOR BILLING POLICIES AND PROCEDURES, AND FOR CREDITS; PROVIDING PENALTIES AND REMEDIES FOR NONPAYMENT OF FEES, INCLUDING DISCONTINUANCE OF UTILITY SERVICES AND THE FILING OF A LIEN; PROVIDING AN APPEAL PROCESS; PROVIDING FOR TERMINATION OF THE STORMWATER (DRAINAGE) UTILITY SYSTEM; PROVIDING FOR A STORMWATER (DRAINAGE) UTILITY FUND; PROVIDING FOR EXEMPTIONS FROM PAYMENT OF THE STORMWATER (DRAINAGE) UTILITY FEE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY, IN ACCORDANCE WITH SECTION 1-7 OF THE CODE OF ORDINANCES, IN AN AMOUNT NOT TO EXCEED THE SUM OF FIVE HUNDRED AND NO/100 DOLLARS (\$500.00), EXCEPT THAT THE PENALTY FOR A VIOLATION OF A PROVISION HEREOF REGARDING FIRE SAFETY, ZONING, OR PUBLIC HEALTH OR SANITATION SHALL NOT EXCEED THE SUM OF TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00); BUT, IN ANY EVENT THE PENALTY SHALL NOT BE LESS THAN OR EXCEED AN AMOUNT AS MAY BE PRESCRIBED BY STATE LAW FOR A VIOLATION, AND EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas ("Town") is a home rule municipality having the full power of local self-government pursuant to its Charter, Article XI, Section 5 of the Texas Constitution, and Chapter 9 of the Texas Local Government Code; and

WHEREAS, within the Town there exists a stormwater (drainage) system developed over a number of years that collects and directs stormwater (drainage) runoff; and

WHEREAS, it is necessary that the collection and direction of stormwater (drainage) runoff within the Town protect the public health, safety, and welfare of Town citizens including but not limited to protection against property damage; and

WHEREAS, the City Council of the Town ("City Council") desires to address the various water quality and environmental issues that may burden its stormwater (drainage) infrastructure, and to protect against surface water overflow, standing surface water, and pollution arising from nonpoint source runoff within the Town; and

WHEREAS, the City Council has investigated and determined that it would be advantageous and beneficial to the citizens of the Town to promote the public health, safety and welfare of the citizens by adopting a Stormwater (drainage) Utility system, as authorized by the Texas Local Government Code Chapter 552, Subchapter C "Municipal Drainage Utility Systems" (the "Act") within the Town's municipal boundaries; and

WHEREAS, the Act provides for the said public utility service to be provided within an established service area; and

WHEREAS, among other things, the Act: (i) authorizes the Town to adopt and enforce rules it considers appropriate to operate the Stormwater (drainage) Utility (Section 552.045(e) of the Act), (ii) references rules for the use, operation, and financing of the stormwater (drainage) utility system (Section 552.042(a)(2) of the Act), (iii) references authority to prescribe bases on which a municipal Stormwater (drainage) Utility system may be funded and fees and charges in support of the system may be assessed, levied and collected (Sections 552.042(a)(5), 552.045(d) of the Act), and (iv) together with Section 580.003(a) of the Local Government Code, provides for certain exemptions from the provisions of the Act and ordinances, resolutions, and rules adopted under the Act; and

WHEREAS, the Town desires by this Ordinance to, among other things, (i) establish rules for the use, operation, and financing of the Town's Stormwater (drainage) Utility system, (ii) prescribe bases on which the system is to be funded, to establish fees and charges in support of the system, and to provide for the assessment, levy and collection of the same, and (iii) to provide for certain exemptions from the provisions the Stormwater (drainage) Utility system, all in a manner that fairly, equitably, and in a non-discriminatory manner allocates the cost of stormwater (drainage) control and treatment to properties in proportion to stormwater runoff potential for each class of property; and

WHEREAS, in accordance with the Act and in connection with this Ordinance, the City Council, before adopting this Ordinance, adopted Ordinance No. ____ and therein found that: (i) the Town will establish a schedule of stormwater (drainage) charges against all real property in the proposed service area subject to charges under the Act, (ii) the Town will provide stormwater (drainage) for all real property in the proposed service area on payment of stormwater (drainage) charges, except real property exempted under the Act, and (iii) the Town will offer stormwater (drainage) service on nondiscriminatory, reasonable, and equitable terms; and

WHEREAS, in accordance with the Act (Section 552.045(c) thereof), notices of a public hearing regarding this Ordinance were published and a public hearing on this Ordinance held concerning the matters set forth herein; and

WHEREAS, as set forth herein, the City Council adopts the Act and declares that the stormwater (drainage) infrastructure and services of the Town is a public utility within the meaning of the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Incorporation of Recitals. The above and foregoing recitals and premises to this Ordinance are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Amendment. The Code of Ordinances of the Town of Addison, Texas (the "Town") is hereby amended by amending Chapter 82 (Utilities) thereof to add thereto a new Article VI (Municipal Stormwater (Drainage) Utility System), Division 1 (Generally) regarding stormwater (drainage) as set forth in Exhibit A attached hereto and incorporated herein for all purposes, and all other chapters, articles, sections, subsections, sentences, phrases and words of the Code of Ordinances are not amended hereby.

Section 3. Savings; Repealer. This Ordinance shall be cumulative of all other ordinances of the Town and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Provided, however, that the repeal of such ordinances or parts of such ordinances, and the amendments and changes made by this Ordinance, shall not affect any right, property or claim which was or is vested in the Town, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes affect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed, amended or changed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.

Section 4. Penalty. It shall be unlawful for any person, firm, corporation, or other business entity to violate any provision of this Ordinance, and any person, firm, corporation, or other business entity violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount in accordance with and as provided in Section 1-7 of the Code of Ordinances (that is, in an amount, not to exceed \$500.00, except that a fine not to exceed \$2,000.00 shall be imposed upon a person convicted of a violation of this Ordinance if the violation governs fire safety, zoning or public health or sanitation, but any penalty imposed for a violation of this Ordinance shall not exceed or be less than the penalty as may be prescribed by state law), and a separate offense shall be deemed committed each day during or on which a violation or failure occurs or continues.

Section 5. Severability. The provisions of this Ordinance are severable, and if any section, subsection, sentence, paragraph, phrase, word, or provision of this Ordinance or the application of any section, subsection, sentence, paragraph, phrase, word, or provision hereof to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by the valid judgment or decree of a court of competent jurisdiction, the same shall not affect the validity of any other section, subsection, phrase, word, or provision of this Ordinance or the application of any other section, subsection, sentence, paragraph, phrase, word, or provision to any person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid or unconstitutional section, subsection, sentence, paragraph, phrase, word, or provision, and to this end the remainder of this Ordinance shall remain in full force and effect.

Section 6. Effective Date. This Ordinance shall become effective from and after its passage and approval and its publication as may be required by law, including but not limited to the City Charter and ordinances.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the ____ day of _____, 2012.

Todd Meier, Mayor

ATTEST:

By:_____
Chris Terry, City Secretary

APPROVED AS TO FORM:

By:_____
John Hill, City Attorney

**EXHIBIT A
TO ORDINANCE NO. _____**

Addition of Article VI (Municipal Stormwater (Drainage) Utility System),
Division 1 (Generally) to Chapter 82 (Utilities) of the Code of Ordinances

ARTICLE VI. STORMWATER (DRAINAGE) UTILITY SYSTEM

DIVISION 1. GENERALLY

**Section 82-261 - Municipal Stormwater (drainage) Utility System Established;
Incorporation of Existing Facilities.**

The Act (as defined in Section 82-264 below) is hereby declared adopted and shall be fully implemented as provided by the Act and by the City Council; and the stormwater (drainage) of the town is hereby declared and found to be a public utility within the meaning of the Act. Pursuant to Section 552.046 of the Act, the town's existing stormwater (drainage) facilities, materials, and supplies, including equipment, are incorporated into the Stormwater (drainage) Utility system.

Section 82-262 - Stormwater (Drainage) Service Provided; Service Area.

The town will provide stormwater (drainage) service for all real property within its boundaries upon payment of the stormwater (drainage) charges applicable thereto as may be included in this Article or otherwise adopted by the town, excluding real property exempt under the Act or other law and certain real property exempted by the town, and such stormwater (drainage) service will be based on nondiscriminatory, reasonable and equitable terms. For purposes of this Article and in connection herewith, the service area for the stormwater (drainage) service is the entire area within the boundaries of the town.

Section 82-263 - Application.

This Article applies to the user (Owner or Customer) of a benefitted property within the service area to which Stormwater (drainage) Utility service is provided.

Section 82-264 - Definitions.

The following definitions shall apply to the establishment and operation of the Stormwater (drainage) Utility system:

Act means Chapter 552, Subchapter C (entitled "Municipal Drainage Utility Systems") of the Texas Local Government Code, as amended.

Airport public area means that portion of the Addison Airport, which is now or hereafter considered by the town to be the obligation and responsibility of the town to operate and

maintain for the common use and benefit of the general aviation public. Subject to the prior sentence, the airport public area includes any air navigation facility or structure designed and intended to serve the general public and is not specifically subject to a lease agreement; all runways, taxiways and other common-use paved, graveled or turfed areas and their respective protection zones, safety areas and/or object free areas; field lighting and associated beacon and lighted wind and landing direction indicators; security, fire, and emergency medical protection; protection of aerial approaches to the Airport; directional signs; and perimeter or restricted access fences. Airport public area does not include any portion of or improvement on the Airport that (a) is owned and leased or rented to third parties by the town, or (b) is occupied by or leased or rented to any government entity, authority, or agency, including the Federal Aviation Administration or U.S. Customs.

Allocated portion means the part of an improved parcel that has been allocated to an Owner or Customer based on the portion used by the Owner or Customer as compared to the improved parcel's total improved area.

Benefitted property means an improved parcel within the service area to which Stormwater (drainage) Utility service is made available. All real property within the service area directly or indirectly receives Stormwater (drainage) Utility service.

City manager means the town manager or the manager's designee.

City secretary means the town secretary or the secretary's designee.

Customer means a user who is recorded as the customer of, or the person using, Stormwater (drainage) Utility or other service(s) for a parcel based on the records of the town.

DCAD means Dallas Central Appraisal District.

Director of Public Works or *Director* means the town's Director of Public Works or the Director's designee.

Equivalent Residential Unit (ERU) means a unit of measurement of impervious surface area calculated for the average single family residential property within the service area, as measured in square feet, including the residential structure, garage, out buildings, and an allocation for the driveway, sidewalks, patios, and any other impervious surface.

Impervious area means a measurement in square feet of impervious surface by which the amount of stormwater (drainage) runoff potential for a benefitted property within a Customer class is estimated.

Impervious surface means a surface that has been compacted or covered with a layer of material so that it is resistant to penetration by water. An impervious surface includes, but is not limited to, compacted soil with a surface treatment, gravel, crushed stone surface or soil compacted by vehicle traffic, asphalt or concrete pavement, a parking lot, a driveway, a sidewalk or private roadway, a building or artificial structure, or any surface that changes the natural

landscape and increases, concentrates, pollutes, or otherwise alters the flow or amount of stormwater (drainage) runoff.

Improved parcel means a parcel that has a building, or other structure, or other improvement, on it that causes or creates an impervious surface.

Include (and any of its derivatives, such as *including*) is a term of enlargement and not of limitation or exclusive enumeration, and use thereof does not create a presumption that components not expressed are excluded.

Non-residential property means an improved parcel that is not a residential property, and includes improved parcels used primarily for retail, commercial, industrial, institutional, or governmental uses, and multi-story, apartment complexes consisting of five (5) or more residential dwelling units in one building, and an improved parcel that is owned by a property owners' association. A condominium property that is master metered for water utility service shall be treated as a non-residential property for the purposes of calculating Stormwater (drainage) Utility Fees.

Owner means the person(s) listed as the owner of a benefitted property in the records of DCAD or the town.

Parcel means a platted lot, or other tract of land that is separately described (by metes and bounds or otherwise), including a leased tract of land.

Person means an individual, sole proprietorship, partnership, limited partnership, joint venture, limited liability company, corporation, business trust, estate, association, and any other legal entity.

Residential dwelling unit means any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation, as required by applicable town codes, for not more than one family. A residential dwelling unit may be housed in a single-family house, a townhome, a manufactured home or a portion of a duplex, triplex, quadplex or an individually metered unit in a condominium complex

Residential property means an improved parcel upon which four (4) or fewer residential dwelling units are constructed. A townhome development that includes a row of five (5) or more residential dwelling units that share common walls, with each unit and the land on which it is located being individually owned, are also residential property. An improved parcel with condominium units that are individually metered for water utility service and are similar to townhomes are also considered residential property for the purpose of calculating Stormwater (drainage) Utility Fees.

Service area means the geographic area within the incorporated limits of the town.

Stormwater (drainage) Utility Infrastructure means the property - real, personal or mixed - that is used in providing stormwater (drainage) capacity to manage and control stormwater

(drainage) runoff for the Stormwater (drainage) Utility system, including bridges, catch basins, channels, conduits, creeks, culverts, detention ponds, retention ponds, ditches, draws, flumes, pipes, pumps, sloughs, treatment works, and appurtenances to those items, whether natural or artificial, or using force or gravity, that are used to draw off surface water from land, carry the water away, collect, store, or treat the water, or divert the water into natural or artificial watercourses.

Stormwater runoff potential means the relative potential for causing stormwater (drainage) runoff quantities, qualities, or velocities from an improved parcel based on the type of development or land use on the improved parcel and the size of the improved parcel.

Stormwater (drainage) Utility means the stormwater (drainage) utility system owned or directly controlled by the town, in whole or in part, including the town's existing stormwater (drainage) facilities, materials, and supplies and any stormwater (drainage) facilities, materials, and supplies hereafter constructed or utilized, and dedicated to the service of benefitted property, including future additions to the system. The Stormwater (drainage) Utility system may also be referred to as a *Utility*.

Stormwater (drainage) Utility Fee means the fee or charge established under this Article VI that is levied against a user (Owner or Customer) of a benefitted property for Stormwater (drainage) Utility services provided by the Stormwater (drainage) Utility system. The Stormwater (drainage) Utility Fee may also be referred to as a *Fee*.

Town means the Town of Addison, Texas.

User means the person who owns or occupies a Benefitted Property.

Wholly Sufficient and Privately Owned Stormwater (drainage) Utility System means land and facilities owned and operated by a person other than the town and from which stormwater (drainage) does not discharge, under any storm frequency event or conditions, into a creek, river, slough, culvert, channel or other infrastructure that is part of the Stormwater (drainage) Utility system.

Section 82-265 - Administration.

(a) *Duty of Director of Public Works.* The Director of Public Works shall administer the Stormwater (drainage) Utility system. The Director shall maintain an accurate record of all benefitted property and the Stormwater (drainage) Utility Fee levied for each such property. The record may be maintained within the town's utility billing system and/or in another record keeping system that may be developed.

(b) *Program Implementation.* By the adoption of this Article, the town makes no representation that all stormwater (drainage) problems may or will be remedied, and the City Council has and retains full discretion in establishing the priorities in expending funds as they become available to meet the town's Stormwater (drainage) Utility needs. The adoption of this Article does not and shall not be construed to relieve private land owners, developers or other

individuals or entities from providing stormwater (drainage) improvements pursuant to the ordinances, rules, codes, and regulations of the town, and federal or State laws and regulations.

(c) *Access to Benefitted Properties.* Town employees shall have access to a benefitted property within the service area to inspect, maintain, repair, or enforce this Article or State laws or regulations relating to stormwater (drainage).

(d) *Governmental Immunity.* The town does not waive any immunity or defense granted or available under any law or otherwise.

Section 82-266 - Stormwater (drainage) Utility Fee, Billing Policies, and Procedures.

(a) *Stormwater (drainage) Utility Rate Classes.* A benefitted property within the service area shall be classified and charged a Stormwater (drainage) Utility Fee based on the Stormwater (drainage) Utility rate determined by the property's rate class and relative size compared to the ERU. Depending on the use of the benefitted property, the property shall be classified as one of the following rate classes:

- (1) Residential property; or
- (2) Non-residential property.

(b) *Responsible Party.*

- (1) A Customer or Owner shall be billed monthly a Stormwater (drainage) Utility Fee for Stormwater (drainage) Utility services. The Stormwater (drainage) Utility Fee shall be levied or charged, along with other municipal services (if any) provided, to the benefitted property, including water, wastewater or solid waste/refuse services.
- (2) The utility bill imposing the Stormwater (drainage) Utility Fee will be mailed to either the Customer or Owner, who is then currently identified by the town as the responsible party for water, wastewater and/or solid waste/refuse service for the benefitted property; and, the Customer or Owner recorded in the town's utility or other billing system shall be responsible for payment of the Stormwater (drainage) Utility Fee.
- (3) If there is no active Customer account for a benefitted property recorded in the town's utility or other billing system, or if a benefitted property is considered by the town to be vacant, either on a temporary or permanent basis, the town may bill the Owner of the benefitted property for the Stormwater (drainage) Utility Fee. The Owner of the benefitted property shall be responsible for payment of fees imposed via a Stormwater Only Account.

- (4) If the town does not bill a benefitted property for water service, wastewater service, or solid waste/refuse service, the Director may establish for that property a “Stormwater Only Account” and bill the Owner or Customer as the Director may determine is appropriate.

(c) *Initial Fee, Rates; Revision of Fee, Rates.* The initial Stormwater (drainage) Utility Fee and Stormwater (drainage) Utility rates are or will be set forth in Division 2 of this Article, below. The City Council has and reserves the right to review the fee and rate schedules at any time and may, by ordinance, increase or decrease the Stormwater (drainage) Utility Fee or rates within the schedule upon a determination that the increase or decrease is warranted.

(d) *Billing Procedures and Policies.*

- (1) Any partial payment of the Stormwater (drainage) Utility Fee shall be applied against the amount due in accordance with the policies and procedures established for utility services provided by the town.
- (2) A late charge and interest may be imposed in accordance with the policies and procedures of the town for established utility services provided by the town.
- (3) A Stormwater (drainage) Utility Fee that is imposed for a period of less than one month shall be prorated on the basis of the proportionate part of the period during which Stormwater (drainage) Utility service was provided.

(e) *Non-Payment.* In addition to any other remedies or penalties provided at law, in the Act, or in this Article, a Customer’s or Owner’s failure to pay promptly when due the Stormwater (drainage) Utility Fee when due shall subject the Customer or Owner to discontinuance of any utility services provided by the town and/or the placement of a lien against the benefitted property that is the subject of such failure to pay to the extent authorized by law and this Article. Additionally, the town may file suit to recover any Stormwater (drainage) Utility Fees, together with maximum interest, attorneys’ fees and other costs and fees allowable under State or federal law, that are not paid when due.

(f) *Allocation of Fee by Residential and Non-Residential Multifamily Properties.* The owner, manager or operator of a residential property or of a non-residential property with a multi-family use, such as an apartment complex or condominium complex that is not individually metered for each dwelling unit, may not bill or collect from its occupants or tenants thereof an amount that, collectively, exceeds the actual Fee imposed on the said property. Any agreement between the owner, manager or operator of such property shall contain a clear written description of the method of calculation of the allocation of the Fee for each of the occupants or tenants. However, the owner, manager or operator may charge an occupant or tenant a fee for late payment of an occupant’s or tenant’s allocated portion of the Fee. The owner, manager, or operator shall maintain adequate records regarding the allocation of the Fee to occupants or

tenants of such property, and shall make such records available for inspection by such occupants or tenants during normal business hours.

Section 82-267 - Calculation of Stormwater (drainage) Utility Fees.

(a) *Rates in Accordance with the Act.* The Stormwater (drainage) Utility Fee and rates shall be established in accordance with the provisions of the Act and this Section.

(b) *Fee Calculation.* The Stormwater (drainage) Utility fee shall be based on an inventory of parcels within the service area. The inventory shall evaluate the stormwater runoff potential for improved parcels within the service area and establish a rate for each class of benefitted properties. The stormwater runoff potential shall be equitably and proportionately distributed between classes and among the parcels within each class of benefitted properties relative to the contribution of each class to stormwater (drainage) runoff. Additionally, the stormwater runoff potential within a class may be subdivided into tiers that group together parcels with similarly sized impervious area on the parcel.

(c) *Stormwater Runoff Potential.* For purposes of establishing the stormwater runoff potential for each class of benefitted properties and between classes of benefitted properties, the Director shall calculate the impervious area for parcels within the service area based on data gathered from DCAD, Geographic Information System records, aerial photography, and site plans or plats available. The Director shall then determine the relative stormwater runoff potential for each rate class and among parcels within each rate class. The rate for each class of benefitted properties and for parcels within each class shall be based on the impervious area measured in square feet (SF).

(d) *Property Values.* In calculating the Stormwater (drainage) Utility Fee and rates, property values may not be used.

Section 82-268 - Stormwater (drainage) Utility Fee Credit.

(a) Any non-residential property on which stormwater (drainage) runoff mitigation measures or best management practices (BMPs) have been implemented or which has on file with the town an approved individual stormwater (drainage) management permit issued by the Texas Commission on Environmental Quality (TCEQ) may be eligible for a credit to the Stormwater (drainage) Utility Fee.

(b) The Director may adjust the Fee for such properties according to the actual mitigative effect of the measures taken. BMPs that were required as part of development plan approval will not be eligible for such credits.

(c) The credit methodology shall be set forth in an administrative policy to be developed and maintained by the Director.

(d) The application for credit shall be in writing and shall include an engineering report sealed by a Texas licensed professional engineer qualified in civil engineering, and/or other documentation that the Director deems necessary, to properly evaluate the rationale for determining the credit for the approved stormwater (drainage) management techniques. Submitted applications may be reviewed by the Director or by a third-party licensed engineer retained by the town to validate the submitted rationale and methodology. Stormwater (drainage) credits will begin upon completion and inspection of the approved mitigation measures on the property.

(e) Any property served by a private stormwater (drainage) facility that is maintained by the town shall not receive a credit and shall be charged the normal monthly Stormwater (drainage) Utility Fee.

(f) The credit will be only for the impervious area within the total parcel area of the non-residential property that receives the stormwater (drainage) management technique.

(g) The maximum credits available with appropriate documentation and approval by the Director are as follows:

- (1) Mitigation efforts impacting stormwater (drainage) quality are worth up to fifty percent (50%) credit against the original Fee;
- (2) Mitigation efforts impacting stormwater (drainage) quantity are worth up to fifty percent (50%) credit against the original Fee.

(h) The Director will determine the final credit allowance based on all engineering reports and any other documentation that the Director deems necessary to make the determination.

(i) The Director shall have the right to inspect the private stormwater (drainage) infrastructure facility at any reasonable time to determine if it is in compliance with the approved design and continues to be capable of functioning properly. If the facility's performance is affected because it fails to meet the proper operating standards, has been altered, or is in disrepair, the Customer or Owner shall pay the monthly Stormwater (drainage) Utility Fee at the normal rate, without benefit of reduction, until such time that the facility is brought into total compliance as determined by the Director.

Section 82-269 – Discontinuance of Utility Service; Collections and Liens.

(a) *Discontinuance of Municipal Utility Service.* The town shall keep an itemized account of the amounts owed pursuant to this Article. If any account is not fully paid within the time period established by the town for the payment of municipal utility fees for the benefitted property, as outlined in the town's policies and procedures, and the Customer or Owner fails to make other arrangements satisfactory to the town, the town, or its contracted utility service provider at the town's direction, is authorized to discontinue utility services provided by the town pursuant to its normal and customary business practices.

(b) *Notice of Intent to Impose Lien.* If any account as described in paragraph (a) of this section is not fully paid within sixty (60) days following the billing date for the account, the town may send notice to the Customer and the Owner of its intent to impose a lien against the benefitted property to which Stormwater (drainage) Utility service is provided (the “notice of intent”). The notice of intent shall be mailed by certified mail, return receipt requested, to the Customer’s billing address, the Owner, and the property address listed by DCAD, if different from the Owner’s address. The notice of intent shall contain the following:

- (1) The name and mailing address of the Customer or Owner to whom the unpaid utility bills were sent pursuant to this Article;
- (2) The name and mailing address of the Owner;
- (3) The street address and a legal description of the benefitted property;
- (4) A statement of Fees and the balance due, including any late charges, interest, and administrative fees incurred; and
- (5) A statement that the Fees are unpaid and delinquent, and that if, within thirty (30) days following the date the notice of intent is mailed, full payment of the balance due has not been received by the town nor an appeal perfected pursuant to Section 82-270, a lien will be placed upon the benefitted property.

(c) *Notice of Lien Filed in County Records.* If, within the time specified in Section 82-269(b)(5), full payment of the balance due has not been received by the town nor has an appeal pursuant to Section 82-270 been perfected, the town secretary may file a notice of lien in the real property records of Dallas County, Texas. The notice of lien shall contain the following:

- (1) The name and mailing address of the Customer and/or Owner to whom the unpaid utility bills were sent pursuant to this Article;
- (2) The name and mailing address of the Owner;
- (3) The street address and a legal description of the benefitted property; and
- (4) An updated statement of Fees and the balance due, including any late charges and interest, and the account number for the delinquent charges.

(d) *Personal Obligation of Customer, Owner; Lien.* The Fees, late charges, interest and administrative fees incurred by the town as set forth in the notice of lien shall be a personal obligation of both the Customer and the Owner, and shall be a lien against the benefitted property, unless the benefitted property is a homestead as protected by the Texas Constitution, for delinquent bills for Stormwater (drainage) Utility service to the benefitted property. The

Town may bring an action in any court of proper jurisdiction against the Customer or Owner to recover the same and any costs incurred by the town in connection therewith.

(e) *Perfection of Lien; Lien Shall be Valid and Privileged.* The lien shall be perfected by recording in the real property records of Dallas County a notice of lien as described in subsection (c) of this section above. The lien may include penalties, interest, and collection costs. The town's lien is inferior to a bona fide mortgage lien that is recorded before the recording of the lien in the real property records of Dallas County. The lien is superior to all other liens, including previously recorded judgment liens and any liens recorded after the town's lien. The lien shall continue until the assessment and all penalties, interest, and other charges due and payable thereon have been paid.

(f) *Lien Must be Paid.* No utility service, building permit, or certificate of occupancy shall be allowed or issued on any property against which a lien has been imposed until the lien is paid in full and such lien is released by the town.

(g) *Release of Lien.* After the expenses incurred by the town, as set forth in the notice of lien, have been fully paid with interest of ten percent (10%) per annum, the town secretary shall execute a release of lien, which shall be filed in the real property records of Dallas County, Texas.

Section 82-270 - Appeal.

(a) *Appeal of Fee Calculation or Determination.* An Owner or Customer who has been charged with a Stormwater (drainage) Utility Fee and who believes that the calculation or determination of the Fee is incorrect may appeal such calculation or determination to the Director. Such Owner or Customer will be referred to as "appellant" in this section. During all periods of appeal, the appellant shall be responsible for payment in full of the Stormwater (drainage) Utility Fee and related charges.

An appeal described in subsection (a) of this section shall be processed as follows:

- (1) The appeal shall be in writing and set forth in detail the grounds upon which relief is sought.
- (2) Until October 1, 2013, the Director shall issue a decision on the appeal within four (4) months from the date that the Director receives the appeal. If the Director determines an adjustment is warranted the Director shall authorize an adjustment retroactive to the beginning of billings of the appealed Fee; however, the adjustment period shall not exceed one (1) year.
- (3) From and after October 1, 2013, the Director shall issue a decision on the appeal within thirty (30) days from the date that the Director receives the appeal. An adjustment resulting from such a request shall be prospective

and applied to future billings and may also be retroactive for no more than three (3) months prior to the receipt of the appeal.

- (4) The Director shall issue a written decision on an appeal.

(b) *Appeal of Other Matters.*

- (1) An Owner or Customer may appeal the following to the Director:

- (A) the applicability of a Stormwater (drainage) Utility Fee to a parcel;
- (B) the calculation of applicable stormwater runoff potential for a parcel;
- (C) the discontinuance of utility service, notice of lien, filing of a lien or other legal action (except for the filing of suit) of the town for non-payment of Stormwater (drainage) Utility Fees.

- (2) An appeal described in these subsections (a) and (b) of this section shall be processed as follows:

(A) The Owner or Customer shall file a written appeal to the Director within thirty (30) days following the date of issuance by the town of a notice or information that would give rise to or be the basis of such an appeal. By way of example and not be way of limitation, the date of issuance of a billing statement that includes a Stormwater (drainage) Utility Fee charge would be the date from which to calculate the said 30-day time period for an appeal regarding the applicability of a Stormwater (drainage) Utility Fee to a parcel or regarding the calculation of applicable stormwater runoff potential for a parcel. The Director may extend the time period for filing an appeal for good cause shown.

(B) The appeal shall be in writing and set forth in detail the grounds upon which relief is sought.

(C) The Director shall hear the appeal within sixty (60) days following the Director's receipt of the appeal. Notice of the hearing shall be mailed to the address given in the appeal form, or if no address is given to the address on the utility billing statement at least fourteen (14) days prior to the hearing.

(D) The burden of proof in connection with an appeal shall be on the Owner or Customer to demonstrate that the Fee is not applicable or that the determination of the value of the Fee was not calculated according to the applicable Stormwater (drainage) Utility Fee schedule or the methodologies established for determining the Stormwater (drainage)

Utility Fees. If applicable and if not previously submitted to the Director, the Owner or Customer shall submit with the appeal a report describing the basis for the appeal. The report shall be prepared by a Texas licensed professional engineer qualified in civil engineering. The Director may require the Owner or Customer to provide supplemental information regarding the appeal, including but not limited to survey data sealed by a Texas licensed professional land surveyor, or other documentation or information that the Director deems necessary to properly evaluate the appeal. The failure to submit such a report and/or information shall be considered in determining whether the applicant has met the burden of proof.

(E) If the appeal is accompanied by a bond or other sufficient security satisfactory to the attorney for the town in an amount equal to the original determination of the Stormwater (drainage) Utility Fee due, any discontinued utility services may be reinstated while the appeal is pending.

(F) At the hearing, the Director shall allow testimony from the Owner or Customer filing the appeal, town employees, and other interested persons relevant to the appeal. The hearing may be continued from time to time.

(G) Following the hearing the Director shall consider all evidence and determine whether the appeal should be granted in whole or in part or denied. The Director shall complete the Director's review and make a decision about the appeal within thirty (30) days of the hearing.

(c) *Burden of Proof.* The Owner or Customer filing the appeal shall bear the burden of proving by a preponderance of the evidence for the relief sought in the appeal. By way of example and not limitation, the Owner or Customer shall bear the burden of proving that a Fee does not apply, or that the Fee is calculated in error, or that the rate class assigned to the Owner or Customer is incorrect.

(d) *Review by the City Manager.* An Owner or Customer dissatisfied with the decision of the Director may seek review of the decision with the City Manager by filing a request for review. A written request for review by the City Manager must be filed with the City Secretary within fifteen (15) days following receipt of the decision on appeal from the Director. In connection with a request for review from an appeal filed pursuant to subsection (a) of this section, the process set forth in subsection (a) of this section shall be followed, and in connection with a request for review from an appeal filed pursuant to subsection (b) of this section, the process set forth in subsection (b)(ii) of this section shall be followed, in each instance with "City Manager" substituted as appropriate for "Director." If the Owner or Customer does not file a request for review with the City Manager, the decision of the Director regarding the appeal shall be final. If the Owner or Customer does file a request for review with the City Manager, the decision of the City Manager shall be final.

(e) *Material Change of Circumstances.* No appeal for the same or substantially the same issue on the same parcel shall be allowed. If, however, the Owner or Customer asserts a material change of circumstances on a parcel that was the subject of a previous appeal, the Owner or Customer must perfect a new appeal; and in such an appeal, the Owner or Customer shall bear the burden of proving by a preponderance of the evidence the existence of a material change of circumstances.

Section 82-271 - Termination of Stormwater (drainage) Utility System.

If, after at least five (5) years of substantially continuous operation of the Stormwater (drainage) Utility system, the City Council determines that the Stormwater (drainage) Utility system should be discontinued, that the powers under the Act should be revoked, and the provision for financing municipal stormwater (drainage) costs should be made by using other revenues, the City Council may adopt an ordinance, after providing notice and a public hearing as required by the Act, that in effect discontinues the Stormwater (drainage) Utility system.

Section 82-272 - Stormwater (drainage) Utility Fund.

(a) *Stormwater (drainage) Utility Fund.* A Stormwater (drainage) Utility fund is established and may consist of one or more accounts. All Stormwater (drainage) Utility Fees shall be deposited as collected and received into this fund and shall be used exclusively for Stormwater (drainage) Utility services as provided in the Act, including, but not limited to the following:

- (1) The prorated cost of the acquisition, whether by eminent domain or otherwise, of land, rights-of-way, options to purchase land, easements, and interests in land relating to structures, equipment, and facilities used in draining the benefitted property;
- (2) The prorated cost of the acquisition, construction, repair, and maintenance of structures, equipment, and facilities used in draining the benefitted property;
- (3) The prorated cost of architectural, engineering, legal, and related services, plans and specifications, studies, surveys, estimates of cost and of revenue, and all other expenses necessary or incident to planning, designing, providing, or determining the feasibility and practicability of structures, equipment, and facilities used in draining the benefitted property;
- (4) The prorated cost of all machinery, equipment, furniture, and facilities necessary or incident to the provision and operation of draining the benefitted property;
- (5) The prorated cost of funding and financing charges and interest arising from construction projects and the start-up cost of a Stormwater (drainage) Utility facility used in draining the benefitted property;

- (6) The prorated cost of debt service and reserve requirements for funding of Stormwater (drainage) Utility infrastructure, equipment and facilities paid with revenue bonds or other securities or obligations issued by the town and supported by pledge of stormwater (drainage) revenues;
 - (7) To the extent permitted by law, the cost of constructing, sampling, monitoring, building, inspecting and maintaining structures needed for the town's compliance with State or federal regulations and permitting requirements for providing stormwater quality improvements for benefitted property; and
 - (8) The administrative costs of the Stormwater (drainage) Utility system.
- (b) *Stormwater (drainage) Utility Fund Accounting.*
- (1) The town shall clearly account for revenues and expenditures authorized for operation of the Stormwater (drainage) Utility system.
 - (2) The revenues collected from Stormwater (drainage) Utility Fees shall be segregated and completely identifiable from other Town funds and accounts.
 - (3) Funds and revenues in the Stormwater (drainage) Utility fund may be transferred to the town's general fund as allowed by law.

(c) *Stormwater (drainage) Utility Service Deposit.* A deposit shall not be imposed for initiation or continuation of Stormwater (drainage) Utility service.

Section 82-273 - Exemptions.

(a) *Mandatory Exemptions.* The following shall be exempt from payment of the Fees established by this Article:

- (1) Entities to which a mandatory exemption under Section 580.003(a) of the Texas Local Government Code applies, including:
 - (A) an agency of the State of Texas;
 - (B) a public or private institution of higher learning.
- (2) Any property to which a mandatory exemption under Section 552.053 of the Act applies, including without limitation:

- (A) Property with proper construction and maintenance of a wholly sufficient and privately owned Stormwater (drainage) Utility system;
- (B) Property held and maintained in its natural state, until such time that the property is developed and all of the public infrastructure constructed has been accepted by the town for maintenance; and
- (C) A subdivided parcel, until a structure or improvement has been built on the subdivided parcel and a certificate of occupancy has been issued by the town, or the town has taken another official action to release the parcel for occupancy.

(b) *Permissible Exemptions.* The following shall be exempt from payment of the fees established by this Article (and the City Council may consider other exemptions to include herein at or after the time of the public regarding this article):

- (1) Town of Addison rights-of-way, including streets, sidewalks, and alleys;
- (2) Airport public area.

(c) *Proof of Exemption.* If the Owner or Customer asserts that a parcel is exempt pursuant to this section or any other applicable law, such Owner or Customer has the burden to assert such exemption by filing notice of eligibility for such exemption and sufficient evidence of entitlement to such exemption with the Director. If the exemption is not granted, the Owner may appeal using the procedures for appeal provided in Section 82-270(b)(2), above.

Council Agenda Item: #R5

AGENDA CAPTION:

PUBLIC HEARING, presentation, and discussion regarding the adoption of an ordinance that amends the Town of Addison's Code of Ordinances by amending Chapter 82 (Utilities), Article VI (Stormwater (Drainage) Utility System) (proposed) of the said Code of Ordinances by adding thereto a new Division II regarding Stormwater (drainage) Utility Fees; establishing monthly Stormwater (drainage) Utility fees for the purpose of funding the Stormwater (drainage) Utility System; providing a severability clause; providing a savings clause; providing for publication; and providing an effective date.

FINANCIAL IMPACT:

n/a

BACKGROUND:

n/a

RECOMMENDATION:

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

 [DRAFT Stormwater Utility Fee Ordinance](#)

Type:

Ordinance

LEGAL NOTICE

Notice is hereby given that the Town Council of the Town of Addison will hold a public hearing on October 9, 2012 at 7:30 P.M. at the Town of Addison, Town Hall at 5300 Belt Line Rd, Dallas, Texas 75254, (972) 450-7000 to consider the following:

Conduct a public hearing on and regarding adoption of an ordinance that amends the Town of Addison's Code of Ordinances by amending Chapter 82 (Utilities), Article VI (Stormwater (Drainage) Utility System) (proposed) of the said Code of Ordinances by adding thereto a new Division II regarding Stormwater (drainage) Utility Fees; establishing monthly Stormwater (drainage) Utility fees for the purpose of funding the Stormwater (drainage) Utility System; providing a severability clause; providing a savings clause; providing for publication; and providing an effective date.

Please see Exhibit "A" for the proposed ordinance (subject to modification prior to adoption). Any interested persons and parties may submit any information they wish to be considered to the City Secretary prior to the date of the public hearings or may appear at the public hearings to be heard, or both.

The facility is wheelchair accessible. If you plan to attend and you have a disability that requires special arrangements, please notify the City Secretary 48 hours in advance of the hearings so that reasonable accommodations can be made. For sign interpretive services, please call 72 hours in advance.

For more information on this Legal Notice, please contact the City Secretary at (972) 450-7000.

Signed this the 30th day of August, 2012.

Chris Terry
Town Secretary

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 82 (UTILITIES), ARTICLE VI (STORMWATER (DRAINAGE) UTILITY SYSTEM) OF THE TOWN CODE OF ORDINANCES, AS AMENDED, BY ADDING THERETO A NEW DIVISION II REGARDING STORMWATER (DRAINAGE) UTILITY FEES; ESTABLISHING MONTHLY STORMWATER (DRAINAGE) UTILITY FEES FOR THE PURPOSE OF FUNDING THE STORMWATER (DRAINAGE) UTILITY SYSTEM; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Addison, Texas (the “City”) is a home rule municipality having the full power of local self-government pursuant to its Charter, Article XI, Section 5 of the Texas Constitution, and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the Town (“City Council”) heretofore adopted Ordinance No. _____ that, among other things, declared adoption of Chapter 552, Subchapter C (entitled “Municipal Drainage Utility Systems”) of the Texas Local Government Code (the “Act”), declared the stormwater (drainage) of the City to be a public utility, and provided for Stormwater (drainage) Utility service for benefitted properties within a designated service area upon payment of Stormwater (drainage) Utility Fees; and

WHEREAS, Section 552.045(d) of the Act provides that, after passage of an ordinance adopting the Act, a municipality may levy a schedule of stormwater (drainage) charges following the holding of a public hearing on the charges for which notice was given; and

WHEREAS, in accordance with the Act, the City published notices of a public hearing regarding this Ordinance and the City Council held a public hearing regarding the charges (fees) set forth in this Ordinance: and, the City Council, finding that the charges (fees) set forth herein are nondiscriminatory, reasonable, and equitable, now desires to levy the schedule of Stormwater (drainage) Utility Fees for Stormwater (drainage) Utility service set forth in this Ordinance; and

WHEREAS, in setting the schedule of Stormwater (drainage) Utility Fees, the Fees are based on an inventory of all parcels within the utility service area; and

WHEREAS, the City Council finds that the adoption of this Ordinance is in the best interests of the health, safety and welfare of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Incorporation of Recitals. The above and foregoing recitals and premises to this Ordinance are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Establishment of Stormwater (Drainage) Utility Fees. Stormwater (drainage) Utility Fees as set forth herein are hereby established. Stormwater (drainage) Utility Fees shall be levied against all benefitted properties (as defined in Chapter 82, Article VI, Division 1 (“Division 1”) of the Code of Ordinances of the Town of Addison, Texas (the “City”) within the utility service area (as defined in Division 1) unless exempt under Division 1. These Fees shall be imposed and issued with utility billing statements issued on and after October 1, 2012.

Section 3. Amendment. The Code of Ordinances of the City is hereby amended by amending Chapter 82 (Utilities), Article VI (Municipal Stormwater (Drainage) Utility System) thereof by adding thereto a new Division 2 (Stormwater (Drainage) Utility Fees), and all other chapters, articles, sections, subsections, sentences, phrases and words of the Code of Ordinances are not amended hereby. The said Division 2 shall read as follows:

DIVISION 2. STORMWATER (DRAINAGE) UTILITY FEES

Section 82-280 - Applicability.

The City Council hereby establishes the Stormwater (drainage) Utility Fees as set forth herein. A Stormwater (drainage) Utility Fee shall be levied against all benefitted property within the service area unless exempt under Section 82-273, above.

Section 82-281 - Fee calculation.

(a) *Stormwater (drainage) Utility Fee Calculation.* Stormwater (drainage) Utility Fees shall be calculated based on the total stormwater runoff potential for benefitted properties for all Customers within the service area. The total stormwater runoff potential shall be measured as impervious areas in square feet (“SF”).

(b) *Stormwater (drainage) Utility Fee.* The total stormwater runoff potential for the service area shall be allocated between and among the Customer classes based on the relative amount of impervious area in each class established in Section 82-266(a), in Division 1, above..

(1) *Residential Property Class.* Stormwater (drainage) Utility Fees for the residential property class of Customers shall be as follows:

(A) The equivalent residential unit (“ERU”) is defined as the average impervious area for all single family residential properties within the City and includes the impervious area of the building footprint plus and an allocation for other impervious surfaces on a residential property. The said average impervious area for the ERU is 3,100 square feet (SF).

- (B) Single family residential properties are further allocated into four (4) residential tiers (Tier 1, Tier 2, Tier 3, Tier 4) for the purpose of billing stormwater charges based on their relative impervious area compared to the ERU of 3,100 SF; the ERU also being the same as the average impervious area within Tier 2.
 - (C) The monthly Stormwater (drainage) Fee shall be a flat-rate Fee for each dwelling unit within each defined residential tier.
 - (D) The value that will be used to identify the tier that will be used to determine the Stormwater (drainage) Fee for a particular residential dwelling unit shall be the impervious area of the footprint of the buildings on the parcel is listed below:
 - (i) Tier 1 Residential:
 - a. Building Impervious Area: 1 SF to 1,999 SF
 - b. The average impervious area for each property in Tier 1 is 60% of the ERU of 3,100 SF, or 1,850 SF
 - (ii) Tier 2 Residential:
 - a. Building Impervious Area: 2,000 SF to 3,399 SF
 - b. The average impervious area for each property in Tier 2 is 100% of the ERU of 3,100 SF, or 3,100 SF
 - (iii) Tier 3 Residential:
 - a. Building Impervious Area: 3,400 SF to 4,999 SF
 - b. The average impervious area for each property in Tier 3 is 150% of the ERU of 3,100 SF, or 4,650 SF
 - (iv) Tier 4 Residential:
 - a. Building Impervious Area: 5,000 SF and above
 - b. The average impervious area for each property in Tier 4 is 250% of the ERU of 3,100 SF, or 7,750 SF
 - (E) The monthly, flat-rate Fee for each Tier for each fiscal year is established in the Fee schedule listed in subsection (c)(1), below.
- (2) *Non-Residential Property Class.* Stormwater (drainage) Utility Fees for the non-residential property class of Customers shall be as follows:
- (A) The non-residential rate, set forth in subsection (c)(5) below, are based on the Tier 2 Residential Fee (the said Tier 2 Residential Fee being based on 100% of the ERU of 3,100 SF) and are established per 1,000 SF of impervious area and determined as follows: 1,000 SF divided by the ERU (3,100 SF) times the then applicable Tier 2 Residential Fee and rounded up to the nearest \$0.01.

- (B) The Stormwater (drainage) Utility Fee for each non-residential property or allocated portion of a non-residential property shall be equal to the product of (a) the impervious area of such non-residential property or allocated portion measured in 1,000 SF, times (b) the rate established in the rate schedule listed in subsection (c)(5), below.

(c) *Schedule of Monthly Fees and Rates.* The monthly Stormwater (drainage) Utility Fee shall be as follows:

- (1) Tier 1 Residential Fee. The monthly Stormwater (drainage) Utility Fee for each residential dwelling unit in Tier 1 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$4.80, FY2014 shall be \$5.10, FY2015 shall be \$5.40, FY2016 shall be \$5.70, FY2017 shall be \$6.00, FY2018 shall be \$6.30, FY2019 shall be \$6.60, FY2020 shall be \$6.90, FY2021 shall be \$7.20, FY2022 shall be \$7.50.

- (2) Tier 2 Residential Fees. The monthly Stormwater (drainage) Utility Fee for each residential dwelling unit in Tier 2 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$8.00, FY2014 shall be \$8.50, FY2015 shall be \$9.00, FY2016 shall be \$9.50, FY2017 shall be \$10.00, FY2018 shall be \$10.50, FY2019 shall be \$11.00, FY2020 shall be \$11.50, FY2021 shall be \$12.00, FY2022 shall be \$12.50.

- (3) Tier 3 Residential Fees. The monthly Stormwater (drainage) Utility Fee for each residential dwelling unit in Tier 3 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$12.00, FY2014 shall be \$12.75, FY2015 shall be \$13.50, FY2016 shall be \$14.25, FY2017 shall be \$15.00, FY2018 shall be \$15.75, FY2019 shall be \$16.50, FY2020 shall be \$17.25, FY2021 shall be \$18.00, FY2022 shall be \$18.75.

- (4) Tier 4 Residential Fees. The monthly Stormwater (drainage) Utility Fee for each residential dwelling unit in Tier 4 shall be as follows for each fiscal year (FY) that begins October 1 and continues through and ends the following September 30, with the first such fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$20.00, FY2014 shall be \$21.25, FY2015 shall be \$22.50, FY2016 shall be \$23.75, FY2017 shall be \$25.00, FY2018 shall be \$26.25, FY2019 shall be \$27.50, FY2020 shall be \$28.75, FY2021 shall be \$30.00, FY2022 shall be \$31.25.

- (5) Non-residential Fees. The monthly Stormwater (drainage) Utility Fee per 1,000 square feet (SF) of impervious area on each non-residential property or allocated portion of a non-residential property shall be as follows for each fiscal year beginning October 1, 2012 and ending September 30, 2013 (and being referred to below as FY2013):

FY2013 shall be \$2.59 per 1,000 SF, FY2014 shall be \$2.75 per 1,000 SF, FY2015 shall be \$2.91 per 1,000 SF, FY2016 shall be \$3.07 per 1,000 SF, FY2017 shall be \$3.23 per 1,000 SF, FY2018 shall be \$3.39 per 1,000 SF, FY2019 shall be \$3.55 per 1,000 SF, FY2020 shall be \$3.71 per 1,000 SF, FY2021 shall be \$3.88 per 1,000 SF, FY2022 shall be \$4.04 per 1,000 SF.

(d) *Minimum Monthly Stormwater (drainage) Utility Fee.* Notwithstanding the rates set forth above, the minimum monthly Stormwater (drainage) Utility Fee for all Customer accounts shall be the Fee for Tier 1 of the residential class for each fiscal year.

(e) *Revision of Fees or Rates.* The Stormwater (drainage) Utility Fee or the Stormwater (drainage) Utility rate may be revised by the City Council through an ordinance from time to time as permitted by this Article and the Act.

Section 4. Savings; Repealer. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Provided, however, that the repeal of such ordinances or parts of such ordinances, and the amendments and changes made by this Ordinance, shall not affect any right, property or claim which was or is vested in the City, or any act done, or right accruing or accrued, or established, or any suit, action or proceeding had or commenced before the time when this Ordinance shall take effect; nor shall said repeals, amendments or changes affect any offense committed, or any penalty or forfeiture incurred, or any suit or prosecution pending at the time when this Ordinance shall take effect under any of the ordinances or sections thereof so repealed, amended or changed; and to that extent and for that purpose the provisions of such ordinances or parts of such ordinances shall be deemed to remain and continue in full force and effect.

Section 5. Severability. The provisions of this Ordinance are severable, and if any phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions of this Ordinance or the application of any phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions hereof to any person, firm, corporation, entity, situation or circumstance is for any reason adjudged invalid or held unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the same shall not affect the validity of any other phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions of this Ordinance or the application of any other phrases, clauses, sentences, paragraphs, sections, subsections, words, or provisions of this Ordinance to any person, firm, corporation, entity, situation or circumstance, and the City Council declares that it would have adopted the valid portions of this Ordinance adopted herein without the invalid or unconstitutional phrases, clauses, sentences, paragraphs, sections, subsections, words or provisions, and to this end the remainder of this Ordinance shall remain in full force and effect.

Section 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage and publication as required by law, including but not limited to the City Charter and ordinances.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this ____ day of _____, 2012.

Todd Meier, Mayor

ATTEST:

By:_____
Chris Terry, City Secretary

APPROVED AS TO FORM:

By:_____
John Hill, City Attorney

Council Agenda Item: #R6

AGENDA CAPTION:

Presentation and discussion regarding the Surveyor 1.5 million gallon Elevated Storage Tank project.

FINANCIAL IMPACT:

BACKGROUND:

n/a

RECOMMENDATION:

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: #R7

AGENDA CAPTION:

Presentation, discussion, and consideration of approval of amendment number 4 to the Program/Project Management Professional Services agreement between the Town of Addison and R.H. Shackelford, Inc. in the amount not to exceed \$178,965.

FINANCIAL IMPACT:

Funding for the Project Design Phases for the Town's 2012 Bond Program, CIP and other miscellaneous projects are allocated to the Town's Capital Projects and Bond Budgets.

Funding for the implementation of the Public Work's operations and maintenance program is allocated in the FY13 Public Works operations budget.

BACKGROUND:

In November 2010, the Town selected R.H. Shackelford from a list of 11 firms who responded to the Town's request for qualifications (RFQ) to provide Program/Project Management Professional Services on an as needed basis for current and future projects. Since their selection, R.H. Shackelford has assisted the Town on a number of projects including Belt Line, Spring Valley, Redding Trail and some of the Vitruvian projects. In addition Shackelford also conducted a thorough review of the Public Work's Department operations and provided a number of recommendations based on that review.

This proposed amendment will provide continued assistance with the implementation of the Town's Bond program including the development of an RFQ for consultant selection, consultant contract negotiations and design phase management for the proposed 2012 bond projects. In addition the amendment also covers the implementation of an operations and maintenance program for the Public Works Department and the development of procedures for addressing these items in the future.

The amendment covers all services through March 31, 2013.

RECOMMENDATION:

Staff recommends approval.

COUNCIL GOALS:

Mindful Stewardship of Town Resources, Conduct the Business of the Town in a Fiscally Responsible Manner

ATTACHMENTS:

Description:

📎 [Shackelford amendment number 4](#)

Type:

Cover Memo

**RFQ 11-04 Program /Project Management Professional Services
Amendment No. 4**

Company: R.H. Shackelford, Inc.

Amendment to Existing Program Project Management Services thur March 31, 2013

PRICE/COST SCHEDULE

Discipline & Job Classification	Principal & Consultant RHSI / CFA / URS / APEX / JQA / SRM / Lwanda		
		2012 Base Year	
PROGRAM / PROJECT MGMT	TOTAL HRS	RATE	TOTAL
1. Principal	164	\$161.40	\$26,469.60
2. Project Manager	344	\$129.48	\$44,541.12
3. Architect / Engineer Professional		\$105.16	
4. Engineer II	698	\$112.38	\$78,441.24
5. Construction/Project Mgr		\$130.60	
6. Assistant Construction Mgr		\$103.27	
7. Project Assistant		\$66.82	
8. Senior Estimator		\$155.22	
9. Estimator II		\$99.64	
10. Estimator I		\$66.15	
11. Senior Inspector		\$85.04	
12. Inspector		\$72.89	
13. Project Professional	240	\$91.12	\$21,861.51
14. Specification Writer		\$79.51	
15. CADD Technician		\$58.75	
16. Estimator II		\$99.64	
17. Administrative	150	\$51.01	\$7,651.50
PAGE 1 of 1			\$178,964.97

Amendment will be invoiced monthly on a hourly basis, owner will only be invoiced for those hours worked. This amendment covers all project listed below until March 31, 2013.

This Amendment will cover the Project Design Phases for all the Town of Addison 2012 Bond Program, CIP and Misc Other Projects. This includes RFQ Development for Consultant Selection, Consultant Contract Negotiations and Design Phase Management for all projects starting at this time. Includes development of a Comprehensive Bond Program Schedule, Program and Contract Cost and coordination with the Town's staff. These project costs will be paid for from Capital Projects and Bond Budget.

In Addition, this amendment includes the implementation phase for the Public Works Department based on the recently completed departmental review. This will include staff augmentation, management and implementation of new department protocols directly related to Life Cycle Maintenance, implementation of the new CMMS System and assist with the transition of the new Public Works Director.

BREAKDOWN - BY PROJECT**2012 Addison Bond Program Scheduling/Cost Controls****ESTIMATED HRS****ESTIMATED COST
BASED ON HRS**

Project Manager

8

Engineer II

60

Administrative Asst

4

\$7,991.53

2012 Addison Bond Program Consultant Selection

Principal

16

Project Manager

120

Engineer II

16

\$20,052.55

Beltline - Underground Utilities - Consultant Negotiation

Principal

8

Project Manager

80

Administrative Asst

8

\$12,147.38

Beltline - Underground Utilities - Design Phase

Project Manager

72

Engineer II

216

Project Professional

72

Administrative Asst

36

\$42,073.81

Other Bond Projects - Consultant Negotiation and Design

Project Manager

64

Engineer II

128

Project Professional

64

Administrative Asst

32

\$30,206.76

ESTIMATED TOTAL (ABOVE PROJECTS)

\$112,472.04

Public Works Department Plan Implementation

Principal

139

Engineer II

277

Project Professional

104

Administrative

69

ESTIMATED TOTAL (ABOVE PROJECTS)

\$66,508.32

Council Agenda Item: #R8

AGENDA CAPTION:

Presentation, discussion, and consideration of approval authorizing the City Manager to execute Change Order number 2 in the amount of \$32,085.00 for the Slope Protection/Drop Structure at Bella Lane.

FINANCIAL IMPACT:

Funds are available from the first phase of the certificates of obligation issued for the Vitruvian project.

BACKGROUND:

One of the comments noted by the US Army Corps of Engineers was the need to address the continued erosion at the existing limestone boulders located south of the Ponte Bridge. The proposed change order provides for the grouting of the boulders.

RECOMMENDATION:

Staff recommends approval.

COUNCIL GOALS:

N/A, Mindful Stewardship of Town Resources, Conduct the Business of the Town in a Fiscally Responsible Manner

ATTACHMENTS:

Description:

- 📎 [change order number 2](#)
- 📎 [picture of proposed area](#)

Type:

- Cover Memo
- Cover Memo

Addison!

TOWN OF ADDISON CHANGE ORDER FORM

Change Order Number: 2

Project Name: Slope Protection/Drop Structure at Bella Lane
Vehicular Bridge and Stabilization at the Downstream Weir

Project Number(s):

Project Manager: Jason Shroyer

Date: 7/30/2012

A. INTENT OF CHANGE ORDER

Change order incorporates modifications to enhance the project and adapt the existing site conditions more effectively and efficiently.

B. DESCRIPTION OF CHANGE

Refer to Section D

C. REASON FOR CHANGE

Item 1 – Grout fill voids at existing limestone boulder area south of Ponte Bridge per Army Corps of Engineers comments. Cost will include a mock-up that will be reviewed by the owner and the developer UDR prior to installation of product.

Item 2 – Repair erosion at creek end walls south of Ponte Bridge

D. EFFECT OF CHANGE ON CONTRACT PRICE

This change order will have the following effect on the cost of this project:

Item Number/Description	Quantity		Amount
Additions			
1. Grout fill voids at existing limestone boulder area (includes mock-up)	2300.00	LF	27,600.00
2. Creek End Wall Repair	1.00	LS	4,485.00
Deletions			
NONE			
Total			32,085.00
Original Contract Amount			344,420.00
Total Contract Amount (Including Previous Change Orders)			346,920.00
Amount of this Change Order			32,085.00
Revised Contract Amount			379,005.00
Total % Increase/Decrease (Including Previous Change Orders)			10.0%

E. EFFECT OF CHANGE ON CONTRACT TIME

The work required under this change will add the following time to the contract:

Original Contract Time (in days)	90
Total Contract Time Including Previous Change Orders (in days)	157
Increase/Decrease in Time from this Change Order (in days)	56
Revised Contract Time (in days)	213

F. AGREEMENT

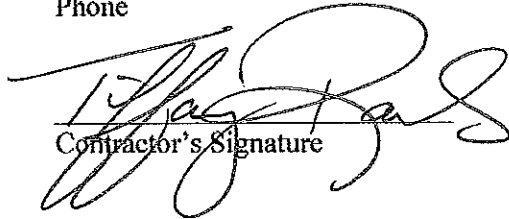
By the signatures below, duly authorized agent of the Town of Addison, Ark Contracting Services, LLC. do hereby agree to append this Change Order Number 1 to the original contract between themselves, dated 3/7/2012 (insert original contract date).

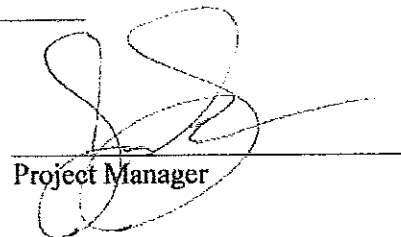
Ark Contracting Services, LLC
Company Name

420 S. Dick Price Road

Kennedale, Texas 76060
City State Zip

817-478-7400
Phone


Contractor's Signature


Project Manager

Department Director

Design Engineer's Signature

Fin. & Strat. Services Representative

Design Engineer's Signature

City Manager

Copies: Contractor (2)
Department
City Secretary
Strategic Services Manager

Council Agenda: Agenda Date _____
(if applicable) Item Number _____
Approved _____



Areas of Erosion

06/08/2012 01:11 PM

Council Agenda Item: #ES1

AGENDA CAPTION:

Closed (executive) session of the Addison City Council pursuant to Section 551.072, Tex. Gov. Code, to deliberate the lease or value of certain real property located at Addison Airport.

FINANCIAL IMPACT:

n/a

BACKGROUND:

n/a

RECOMMENDATION:

n/a

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: #ES2

AGENDA CAPTION:

Closed (executive) session of the Addison City Council pursuant to Section 551.072, Tex. Gov. Code, to deliberate the lease or value of certain real property located at 4460 Belt Line Road.

FINANCIAL IMPACT:

n/a

BACKGROUND:

n/a

RECOMMENDATION:

n/a

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: #R1

AGENDA CAPTION:

Presentation, discussion and consideration of any action regarding the lease between the Town, as landlord, and Durga Services, LLC, as tenant, of the property located at 4460 Belt Line Road.

FINANCIAL IMPACT:

n/a

BACKGROUND:

n/a

RECOMMENDATION:

n/a

COUNCIL GOALS:

N/A

ATTACHMENTS:

Description:

Type:

No Attachments Available

Council Agenda Item: #R2

AGENDA CAPTION:

Presentation, discussion, and consideration of action regarding certain real property located at Addison Airport, including the lease or value of such property and related matters.

FINANCIAL IMPACT:

N/A

BACKGROUND:

N/A

RECOMMENDATION:

Staff recommends approval.

COUNCIL GOALS:

Mindful Stewardship of Town Resources, Provide Superior Public Safety, Customer Service, Social and Health Services to the Community, Conduct the Business of the Town in a Fiscally Responsible Manner

ATTACHMENTS:

Description:

Type:

No Attachments Available